

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

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|------------------------------|---|-------------------------------------|
| IN THE MATTER OF: |) | |
| |) | |
| General Iron Industries Inc. |) | Administrative Consent Order |
| Chicago, Illinois |) | |
| |) | EPA-5-99-IL-5 |
| |) | |
| Proceeding Pursuant to |) | |
| Section 113(a) of the Clean |) | |
| Air Act, 42 U.S.C. |) | |
| §§ 7413(a) and 7414. |) | |

ADMINISTRATIVE CONSENT ORDER

The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to General Iron pursuant to Section 113(a) and 114(a) and section 608 of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a) and 7414(a) and 7671(g). This Order hereby supersedes the Cease and Desist Order issued by U.S. EPA on May 28, 1999.

STATUTORY AND REGULATORY BACKGROUND

The purpose of Subchapter VI of the Act, 42 U. S. C. § 7671(a-q), is to preserve the stratospheric ozone layer, which protects the earth from the penetration of ultraviolet radiation. An increase in the penetration of ultraviolet radiation will result in potential health and environmental harm, including increased incidence of certain skin cancers and cataracts; suppression of the immune system; damage to plants, including crops and aquatic organisms; increased formation of ground-level ozone; and increased weathering of outdoor plastics.

1. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), authorizes the Administrator of U.S. EPA to issue an order requiring compliance with the federal regulations to any person who has violated or is in violation of the federal regulations. The Administrator has delegated the authority to issue these orders to the Director of the Air and Radiation Division.
2. Section 114(a) of the Act, 42 U.S.C. §7414(a), provides that, for the purpose of carrying out any provisions of the

Clean Air Act, the Administrator may require any person who the Administrator believes may have information necessary to determine compliance with the Clean Air Act to provide information as the Administrator may reasonably require.

3. Section 608(g) of the Act, 42 U. S. C. § 7671(g), required the United States Environmental Protection Agency (U. S. EPA) to promulgate regulations establishing standards and requirements regarding the use and disposal of Class I and Class II substances during the service, repair, or disposal of appliances.
4. Section 608(c) of the Act 42 U.S.C. § 7671(c), provides, in part, that it shall be unlawful for any person in the course of maintaining, servicing, repairing or disposing of an appliance to knowingly vent or otherwise knowingly release a class I or class II refrigerant into the environment.
5. The regulations promulgated by U. S. EPA pursuant to Section 608 of the Act were published in the Federal Register on May 14, 1993, 58 Fed. Reg. 28660-731, and codified at 40 C.F.R. §§ 82.150-166.
6. 40 C. F. R. § 82.156(f) provides that, persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance must either 1) recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.156(g) or (h); or 2) verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verification must include a signed statement from the person from whom the appliance or shipment of appliances is obtained that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances, in accordance with § 85.156(g) or (h). This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered, or a contract that refrigerant will be removed prior to delivery.

FINDINGS

7. General Iron owns and operates a scrap processing facility located at 1909 N. Clifton Avenue, Chicago, Illinois.
8. General Iron is a person, as defined in 40 C.F.R. § 82.152, who disposes of appliances and small appliances as part of its business operations. General Iron is therefore subject

to the regulations at 40 C.F.R. Part 82, Subpart F.

9. General Iron disposed of appliances and/or small appliances without first recovering the refrigerant from the appliances or verifying that the refrigerant had been previously evacuated from the appliances. Therefore, General Iron is subject to Federal Regulations pertaining to the Protection of Stratospheric Ozone at 40 C.F.R. § 82.156(f).
10. General Iron disposed of appliances and/or small appliances, causing the release into the environment of a Class I and/or Class II substance used as a refrigerant. Therefore, General Iron is subject to Section 608(c)(1) of the Act, 42 U.S.C. 7671(g), and 40 C.F.R. § 82.154(a). The release of these substances into the environment causes ozone-depletion and has a harmful effect on human health and the environment.

ORDER

Before taking any testimony, without adjudication of any issues of law or fact, and by neither admitting nor denying the allegations stated above, General Iron consents to the entry of, and agrees to comply with, this Order. It is determined that the actions hereby ordered and agreed to are reasonable and meet the requirements of Sections 113(a), 114(a) and 608 of the Act, 42 U.S.C. §§7413(a), 7414(a) and 7671(g).

THEREFORE, IT IS HEREBY AGREED AND ORDERED THAT:

11. By the effective date of this Order, General Iron certifies that it is now in compliance with Section 608 of the Act, 42 U.S.C. § 7671(g), and the requirements of 40 C.F.R. 82, Subpart F, at its facility located at 1909 N. Clifton Avenue, Chicago, Illinois.
12. Prior to performing any future activities involving the disposal of scrap materials that may contain refrigerant covered by Section 608 of the Act, 42 U.S.C. § 7671(g), General Iron must implement the scrap handling procedures identified in Exhibit A, attached hereto, and must:
 - a. Comply with the verification provisions of 40 C.F.R. 82.156(f) by having all its suppliers either: 1) recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.156(g) or (h); or 2) at the time of scrap delivery, obtain a verification statement which is completed pursuant to 40 C.F.R.

§ 82.156(f) and include the address of such individual or company, attached hereto as Exhibit B; or 3) prior to scrap delivery, enter into a contract which contains all the information provided in the Sample Contract, attached hereto as Exhibit C. U.S. EPA finds that the language of Exhibit B and C complies with the requirements of 40 C.F.R. § 82.156(f)(2).

- b. Implement, among other things, the following scrap handling procedures, based on those identified in General Iron's June 3, 1999 Compliance Plan for Refrigerant Appliances, Exhibit A:
 - i) Prior to accepting material, General Iron will perform visual inspections of shipments from suppliers who have not entered into a contract with General Iron to determine the uniformity and acceptability of the material, and the absence of any appliances suspected of containing refrigerants. If General Iron determines that there are appliances suspected of containing refrigerants, General Iron must recover the refrigerant.
 - ii) General Iron will have refrigerant evacuated by a technician in accordance with the applicable procedures in 40 C.F.R. Part 82, Subpart F. In such cases, General Iron shall mark the subject items with a sticker stating that the unit has been evacuated of all refrigerant gas, to be signed and dated by the technician, or otherwise mark the items in an acceptable way to indicate that CFCs have been removed. General Iron shall ship or sell the material to another party for disposal or recycling. General Iron has obtained U.S. EPA's prior authorization to dispose of the material.
 - iii) General Iron shall maintain a log book documenting such appliances and their disposition. The log book entries, technicians' approval regarding CFC removal, copies of written contracts and verifications shall be maintained by General Iron at each of its scrap recycling facilities for a period of at least three years.

13. For six months beginning with the first full month of issuance of this Order, on the second and fourth Tuesdays of each month, General Iron must record the following information:
 - a. The number of appliances it received that potentially contained regulated refrigerant, including those for which there are no verification contracts;
 - b. The number of appliances for which General Iron receives certification that the refrigerant has been removed prior to delivery;
 - c. The number of appliances for which General Iron segregates and recovers the refrigerant; and
 - d. The number of appliances which have been crushed, damaged or destroyed before delivery to General Iron in such a manner that General Iron determines that they no longer contain refrigerant.

In the event that General Iron is unable to conduct the survey on a designated Tuesday, General Iron may conduct the survey on an alternate date as close in time as possible to the designated date, but in no event shall General Iron conduct fewer than two surveys in any month. If General Iron conducts a survey on a day other than the second or fourth Tuesday of any month, General Iron shall include in its report an explanation for the change in surveying date.

14. For each month during which General Iron collects the required information, General Iron must report to U. S. EPA by the fifteenth day of the following month the information recorded. An appropriate representative shall sign the reports and must include the following certification:

I certify under penalty of law that I have examined and am familiar with the information submitted in this report, and based upon my inquiry of those individuals immediately responsible for obtaining the information and compiling the report, I believe that the information submitted is true, accurate and complete.

15. General Iron shall send all reports required by this Order to:

Vivian Doyle, Environmental Scientist
Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604.

16. General Iron shall maintain in its file, and shall make available to U. S. EPA upon request, the information collected for three years.
17. Pursuant to 40 C.F.R. Part 2, Subpart B, General Iron is entitled to assert a claim of business confidentiality regarding any portion of the information submitted in response to this request, except emission data, as defined at 40 C.F.R. §2.301(a)(2). Failure to assert a claim of business confidentiality renders all submitted information available to the public without further notice. Information which is subject to a claim of business confidentiality may be available to the public only to the extent provided in 40 C.F.R. Part 2, Subpart B.
18. So long as General Iron is in compliance with the terms of this Order, it may again resume activities involving the disposal of appliances and small appliances which contain or may contain refrigerant. The "cease and desist order" is hereby superseded by this Order.

GENERAL PROVISIONS

19. This Order does not affect General Iron's responsibility to comply with other local, state, and federal laws and regulations.
20. Nothing in this Order shall be construed as a waiver by U.S. EPA of any rights or remedies under the Act. U.S. EPA reserves the right to seek appropriate relief, including penalties, under Sections 113(b) and (d) of the Act, 42 U.S.C. §§ 7413(b) and (d), and any other applicable sections of the Act, for General Iron's violations.
21. Nothing in this Order shall be construed to restrict U.S. EPA's authority under Section 114 of the Act, 42 U.S.C.

§ 7414, to request further information from General Iron or to enter into, upon, or through the establishment of General Iron for the purpose of carrying out any inspections, taking photographs, reviewing any records, observing tests, and conducting any tests, which are deemed by the Administrator to be necessary to ensure compliance with this Order.

22. Failure to comply with this Order may subject General Iron to penalties of up to \$27,500 per day for each violation pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b).
23. The provisions of this Order shall apply to and be binding upon General Iron, its officers, directors, agents, servants, employees, assignees and any successors in interest. General Iron shall give notice of this Order to any successors in interest, prior to transfer of ownership, and shall simultaneously verify to U.S. EPA, at the above address, that General Iron has given the notice.
24. This request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.
25. U. S. EPA may use any information collected pursuant to this Order in support of an administrative, civil or criminal action against General Iron.
26. Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), states that an Order shall not take effect until the person to whom it is issued has had an opportunity to confer with U.S. EPA concerning the alleged violation. Therefore, U.S. EPA is providing to General Iron an opportunity to confer with U.S. EPA concerning this Order. General Iron may schedule a conference with U.S. EPA by contacting Vivian Doyle, Air Enforcement and Compliance Assurance Branch (AE-17J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, or phoning her at (312) 353-7996 immediately upon receipt of this Order.
27. General Iron agrees to the terms of this Order.
28. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will expire one year from the effective date, provided that General Iron has complied with all of its terms.

General Iron hereby consents to the provisions of this Order and agrees that it is a reasonable means to resolve this administrative action. In the event that U. S. EPA brings an action to enforce the terms of this Order, General Iron waives the defense that the terms of this Order are unreasonable.

6/10/99
Date

Nathan Rosenmutter by Mandy Labin POA
Nathan Rosenmutter, President
General Iron Industries Inc.

6/11/99
Date

J. J. S. FOR
Margaret M. Guerriero,
Acting Director
Air and Radiation Division

Enclosures

CERTIFICATE OF MAILING

I, Betty Williams, do hereby certify that an Administrative Consent Order was sent by Certified Mail, Return Receipt Requested, to:

David L. Rieser, Esquire
Ross & Hardies
150 North Michigan Avenue
Suite 2500
Chicago, Illinois 60601


I also certify that a copy of the Administrative Consent Order was sent by first class mail to:

Nathan Rosenmutter, President
General Iron Industries Inc.
1909 N. Clifton Avenue
Chicago, Illinois 60614

David Kolaz, Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

Harish Narayan, Acting Regional Manager
Region 1
Illinois Environmental Protection Agency
1701 First Avenue - Suite 600
Maywood, Illinois 60153

on the 11th day of June 1999.


Betty Williams, Secretary
AECAS (IL/IN)

P140779130
CERTIFIED MAIL RECEIPT NUMBER